

Adopted	Rejected
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## COMMITTEE REPORT

YES:	9
NO:	2

### MR. SPEAKER:

*Your Committee on* **Technology, Research and Development**, to which was referred Senate Bill 245, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

1       Page 1, delete lines 1 through 15, begin a new paragraph and insert:  
 2       "SECTION 1. IC 4-23-7.1-40.5, AS ADDED BY P.L.136-2005,  
 3       SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 4       JULY 1, 2006]: Sec. 40.5. (a) For purposes of this section, "accessible  
 5       electronic information service" means a service that provides to an  
 6       eligible individual news and other timely information, including  
 7       newspapers, from a multistate service center, using high speed  
 8       computers and telecommunications technology for Internet acquisition  
 9       of content and rapid distribution in a form appropriate for use by an  
 10      eligible individual.  
 11      (b) For purposes of this section, "director" refers to the director of  
 12      the Indiana talking books and braille division of the Indiana state  
 13      library.  
 14      (c) For purposes of this section, "eligible individual" means an  
 15      individual who is blind or disabled and qualifies for services under 36

1 CFR 701.10(b).

2 (d) For purposes of this section, "qualified entity" means an agency,  
3 instrumentality, or political subdivision of the state or a nonprofit  
4 organization that:

5 (1) using computer technology, produces audio or braille editions  
6 of daily news reports, including newspapers, for the purpose of  
7 providing eligible individuals with access to news;

8 (2) obtains electronic news text through direct transfer  
9 arrangements made with participating news organizations; and

10 (3) provides a means of program administration and reader  
11 registration on the Internet.

12 (e) The director may enter into an agreement with a qualified entity  
13 to provide an accessible electronic information service for eligible  
14 individuals. This service shall be planned for continuation from year to  
15 year and make maximum use of federal and other funds available by:

16 (1) obtaining grants or in kind support from appropriate programs;  
17 and

18 (2) securing access to low cost interstate rates for  
19 telecommunications by reimbursement or otherwise.

20 **(f) The accessible electronic information service fund is**  
21 **established for purposes of this section. The fund consists of**  
22 **appropriations from the general assembly, loan proceeds, and gifts**  
23 **and grants to the fund.**

24 **(g) The treasurer of state shall invest the money in the accessible**  
25 **electronic information service fund not currently needed to meet**  
26 **the obligations of the fund in the same manner as other public**  
27 **funds may be invested.**

28 **(h) The money in the accessible electronic information service**  
29 **fund at the end of a state fiscal year does not revert to the state**  
30 **general fund but remains in the fund to be used exclusively for**  
31 **purposes of this section.**

32 SECTION 2. IC 8-1-1.1-3 IS AMENDED TO READ AS  
33 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The governor  
34 shall appoint a consumer counselor, for a term of four (4) years at a  
35 salary to be fixed by the governor. The counselor shall serve at the will  
36 and pleasure of the governor. The counselor shall be a practicing  
37 attorney, and qualified by knowledge and experience to practice in  
38 utility regulatory agency proceedings. The counselor shall apply ~~his~~ **the**

1 **counselor's** full efforts to the duties of the office and may not ~~be~~  
 2 ~~actively engaged~~ **engage** in any ~~other~~ occupation, practice, profession,  
 3 or business **that would conflict with the duties of the office."**.

4 Page 2, delete lines 1 through 5.

5 Page 7, line 27, after "citizens" insert ",."

6 Page 8, line 6, delete "or".

7 Page 8, between lines 6 and 7, begin a new line block indented and  
 8 insert:

9 **"(5) commercial mobile service (as defined in 47 U.S.C. 332);**  
 10 **or"**.

11 Page 8, line 7, delete "(5)" and insert **"(6)"**.

12 Page 8, line 13, delete "service except as follows:" and insert  
 13 **"service."**.

14 Page 8, delete lines 14 through 28.

15 Page 12, delete lines 24 through 28.

16 Page 12, line 29, delete "(j)" and insert **"(i)"**.

17 Page 13, line 2, delete "service, except as follows:" and insert  
 18 **"service."**.

19 Page 13, delete lines 3 through 18.

20 Page 15, between lines 25 and 26, begin a new line block indented  
 21 and insert:

22 **"(3) Consumer access to affordable basic telecommunications**  
 23 **service."**.

24 Page 15, line 26, delete "(3)" and insert **"(4)"**.

25 Page 15, line 28, delete "(4)" and insert **"(5)"**.

26 Page 15, line 30, delete "(5)" and insert **"(6)"**.

27 Page 17, line 13, delete "eliminated; and" and insert **"eliminated by**  
 28 **the commission under section 4.1 of this chapter during the two (2)**  
 29 **most recent state fiscal years; and"**.

30 Page 17, line 14, delete "a justification for all telecommunications  
 31 rules and" and insert **"an explanation of why the telecommunications**  
 32 **rules and policies identified under clause (A) are no longer in the**  
 33 **public interest or necessary to protect consumers."**.

34 Page 17, delete lines 15 through 17.

35 Page 18, line 14, delete "that are no longer" and insert **"if the rules**  
 36 **or policies are no longer necessary in the public interest or for the**  
 37 **protection of consumers as the result of meaningful economic**  
 38 **competition between providers of telecommunications services."**.

1       Page 18, delete lines 15 through 16, begin a new paragraph and  
2 insert:

3       **"(b) Not later than July 1, 2007, the commission shall adopt rules**  
4 **under IC 4-22-2 to require a telecommunications service provider,**  
5 **at any time the provider communicates with a residential customer**  
6 **about changing the customer's basic telecommunications service to**  
7 **nonbasic telecommunications service, to notify the residential**  
8 **customer of:**

9           **(1) the option of basic telecommunications service; and**  
10          **(2) any regulatory protections, including pricing or quality of**  
11          **service protections, that the residential customer would forego**  
12          **by switching to nonbasic telecommunications service."**

13       Page 18, line 17, delete "(b)" and insert "(c)".

14       Page 18, line 19, delete "even-numbered" and insert  
15 "odd-numbered".

16       Page 18, delete lines 22 through 25, begin a new line block indented  
17 and insert:

18          **"(1) identify any regulation or policy eliminated by the**  
19          **commission under this section during the two (2) most recent**  
20          **state fiscal years; and**  
21          **(2) explain why the regulation or policy is no longer in the**  
22          **public interest or necessary to protect consumers."**

23       Page 18, between lines 35 and 36, begin a new paragraph and insert:

24       **"SECTION 22. IC 8-1-2.6-11 IS ADDED TO THE INDIANA**  
25 **CODE AS A NEW SECTION TO READ AS FOLLOWS**  
26 **[EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Notwithstanding any**  
27 **other law, the commission shall not, by entering an order, adopting**  
28 **a rule, or taking any other action, impose a regulation or**  
29 **performance standard concerning the transfer of customers**  
30 **between providers unless the regulation or performance standard**  
31 **is imposed equally and uniformly on all providers.**

32          **(b) After a customer's telecommunications services have been**  
33 **transferred, the initial provider may, to the extent permitted by**  
34 **federal law and by IC 24-4.7-4, contact the customer to confirm**  
35 **that the customer has made the decision to change to the other**  
36 **provider.**

37          **(c) A provider may not refuse to transfer or facilitate the**  
38 **transfer of a local exchange service customer of the provider to**

1 **another provider on the same terms and conditions that the**  
 2 **provider receives from any other provider unless the terms and**  
 3 **conditions violate federal law."**

4 Page 19, line 20, delete "continue to".

5 Page 20, line 24, delete "provider" and insert **"provider, other than**  
 6 **a provider of commercial mobile service (as defined in 47 U.S.C.**  
 7 **332),"**

8 Page 21, between lines 30 and 31, begin a new line block indented  
 9 and insert:

10 **"(13) After June 30, 2009, collect and maintain from a**  
 11 **provider of commercial mobile service (as defined in 47 U.S.C.**  
 12 **332) the following information:**

13 **(A) The address of the provider's website.**

14 **(B) All toll free telephone numbers and other customer**  
 15 **service telephone numbers maintained by the provider for**  
 16 **receiving customer inquiries and complaints.**

17 **(C) An address and other contact information for the**  
 18 **provider, including any telephone number not described in**  
 19 **clause (B).**

20 **The commission shall make any information submitted by a**  
 21 **provider under this subdivision available on the commission's**  
 22 **website. The commission may also make available on the**  
 23 **commission's website contact information for the Federal**  
 24 **Communications Commission and the Cellular Telephone**  
 25 **Industry Association."**

26 Page 21, delete lines 31 through 42.

27 Page 22, delete line 1.

28 Page 22, line 2, delete "(f)" and insert **"(e)"**.

29 Page 22, line 8, delete "However, if the provider has elected to file  
 30 a tariff".

31 Page 22, delete lines 9 through 15.

32 Page 22, line 23, after "(d)" insert **",**".

33 Page 22, line 26, delete "(g)" and insert **"(f)"**.

34 Page 25, line 25, after "area" insert **"in Indiana"**.

35 Page 27, line 42, after "members" insert **"for communications**  
 36 **service originating with the members' Indiana customers"**.

37 Page 28, between lines 28 and 29, begin a new paragraph and insert:

38 **"SECTION 35. IC 8-1-2.8-23 IS AMENDED TO READ AS**

1       FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) If the  
2       InTRAC meets the requirements of sections 18 and 21 of this chapter,  
3       the InTRAC:

- 4               (1) is not a public utility;  
5               (2) is not a telephone company **or a communications service**  
6               **provider;** and  
7               (3) is free from the jurisdiction and oversight of the commission  
8               except as specifically provided in this chapter.

9       (b) The InTRAC is not an affiliated interest (as defined in  
10       IC 8-1-2-49). An officer, a director, or a member of the InTRAC may  
11       not be construed to be an affiliated interest solely because that person  
12       or entity is an officer, a director, or a member of the InTRAC."

13       Page 29, delete lines 1 through 5.

14       Page 29, line 19, delete "Except as".

15       Page 29, line 20, delete "provided in subsection (b), the" and insert  
16       "The".

17       Page 29, delete lines 27 through 36.

18       Page 29, line 37, reset in roman "(b)".

19       Page 29, line 37, delete "(d)".

20       Page 29, line 38, delete "or office".

21       Page 29, delete lines 39 through 42.

22       Page 30, delete lines 1 through 20.

23       Page 47, between lines 26 and 27, begin a new paragraph and insert:

24       "SECTION 53. IC 8-1-29.5 IS ADDED TO THE INDIANA CODE  
25       AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
26       JULY 1, 2006]:

27       **Chapter 29.5. Enforcement Remedies for Prohibited Actions by**  
28       **Telecommunications Service Providers and Video Service**  
29       **Providers**

30       **Sec. 1. This chapter applies to a provider and a certificate**  
31       **holder.**

32       **Sec. 2. Except as otherwise provided, the definitions in**  
33       **IC 8-1-2.6 apply throughout this chapter.**

34       **Sec. 3. As used in this chapter, "certificate holder" refers to a**  
35       **person holding a certificate of franchise authority issued under**  
36       **IC 8-1-34-17.**

37       **Sec. 4. As used in this chapter, "commission" refers to the**  
38       **Indiana utility regulatory commission created by IC 8-1-1-2.**

1       **Sec. 5. As used in this chapter, "customer", with respect to a**  
 2       **provider, refers to any of the following:**

- 3           **(1) A residential customer.**
- 4           **(2) A business customer.**
- 5           **(3) Another provider that obtains retail or wholesale services**  
 6           **from the provider.**

7       **Sec. 6. (a) If:**

- 8           **(1) one (1) or more customers of a provider or a certificate**  
 9           **holder;**
- 10          **(2) another provider;**
- 11          **(3) the utility consumer counselor; or**
- 12          **(4) any class satisfying the standing requirements of**  
 13          **IC 8-1-2-54;**

14       **files a complaint with the commission alleging that a service over**  
 15       **which the commission has jurisdiction that is provided by a**  
 16       **provider or a certificate holder is unreasonable, unsafe,**  
 17       **insufficient, or unjustly discriminatory, or that any service is**  
 18       **inadequate or can not be obtained, the commission may investigate**  
 19       **the complaint as the commission considers appropriate. The**  
 20       **commission shall conduct an investigation under this section on an**  
 21       **expedited basis, and a complaint filed by another provider under**  
 22       **this section that alleges a violation of an interconnection agreement**  
 23       **or order is subject to the commission's expedited procedures under**  
 24       **170 IAC 7-7.**

25       **(b) If, after notice and an opportunity for hearing, the**  
 26       **commission determines from an investigation conducted under**  
 27       **subsection (a) that a provider or a certificate holder has violated a**  
 28       **provision of this chapter or a lawful order of the commission, the**  
 29       **commission may do any of the following:**

- 30           **(1) Issue an order directing the provider or the certificate**  
 31           **holder to cease and desist from the violation.**
- 32           **(2) Mandate corrective action to alleviate the violation.**
- 33           **(3) Revoke or modify the terms of:**
  - 34               **(A) an indeterminate permit;**
  - 35               **(B) a certificate of territorial authority;**
  - 36               **(C) a certificate of franchise authority issued under**  
 37               **IC 8-1-34; or**
  - 38               **(D) another license or authorization;**

1 issued to the provider or the certificate holder by the  
2 commission.

3 (4) Impose a civil penalty of not more than ten thousand  
4 dollars (\$10,000) per violation, if the violation involves any of  
5 the following:

6 (A) A willful disregard, as evidenced by a continuing  
7 pattern of conduct, by the provider or the certificate holder  
8 of its obligation to remedy the violation after the provider  
9 or the certificate holder becomes aware of the violation.

10 (B) Repeated errors in bills issued to one (1) or more  
11 customer classes, if the errors:

12 (i) represent intentional misconduct or an act of fraud by  
13 the provider or the certificate holder or by any officer,  
14 accountant, or agent of the provider or certificate holder;  
15 or

16 (ii) demonstrate, by a continuing pattern of conduct, a  
17 willful disregard by the provider or the certificate holder  
18 of its obligation to remedy the errors after the provider  
19 or the certificate holder becomes aware of the errors.

20 Subject to section 7(a)(1) of this chapter, for purposes of this  
21 subdivision, a single act, omission, occurrence, or event that  
22 results in multiple complaints being filed under subsection (a)  
23 constitutes a single violation and is not subject to more than  
24 one (1) civil penalty. The commission may not consider each  
25 day that a particular violation continues to be a separate  
26 violation.

27 (c) A matter resolved through voluntary mediation is not  
28 considered a violation for purposes of this section.

29 (d) A provider or a certificate holder may not be subject to both:

30 (1) a civil penalty or an order of the commission under this  
31 section; and

32 (2) a penalty or remedy agreed to in a commission approved  
33 settlement agreement;

34 for the same violation. If the commission has approved a settlement  
35 agreement under IC 8-1-2.6 that includes penalties or remedies for  
36 noncompliance with specific provisions of the settlement  
37 agreement, the penalties or remedies provided in this section do not  
38 apply to those instances of noncompliance during the life of the



1 settlement agreement.

2 (e) The attorney general may bring an action in the name of the  
3 state to enforce any action taken by the commission under  
4 subsection (b), including the collection of an unpaid civil penalty  
5 imposed by the commission.

6 (f) The following are subject to appeal by a provider under  
7 IC 8-1-3:

8 (1) A determination by the commission under this section that  
9 a provider or a certificate holder has violated a provision of  
10 this chapter or a lawful order of the commission.

11 (2) The appropriateness of any action taken by the  
12 commission under subsection (b)(1) through (b)(3).

13 (3) The appropriateness of:

14 (A) the imposition of a civil penalty by the commission  
15 under subsection (b)(4); or

16 (B) the amount of the penalty imposed.

17 Upon the motion of a provider or a certificate holder, the  
18 commission shall stay the effect or enforceability of an order or  
19 penalty under this section pending an appeal, subject to the  
20 provider or the certificate holder posting a bond that complies with  
21 Rule 18 of the Indiana Rules of Appellate Procedure.

22 Sec. 7. (a) In imposing a civil penalty under section 6(b)(4) of  
23 this chapter, the commission may consider the following factors:

24 (1) The duration and gravity of the violation, including the  
25 number of customers affected.

26 (2) The presence or absence of due diligence on the part of the  
27 violating provider or certificate holder to comply with or  
28 secure relief from a provision of this article or a lawful order  
29 of the commission.

30 (3) Economic benefits accrued by the violating provider or  
31 certificate holder because of the delay in complying with a  
32 provision of this article or a lawful order of the commission.

33 (4) The amount of a civil penalty that will:

34 (A) deter future violations by the violating provider or  
35 certificate holder; and

36 (B) enhance voluntary compliance with a provision of this  
37 article or a lawful order of the commission.

38 (5) The market share of the violating provider or certificate

holder in the affected service areas.

(6) Good faith of the violating provider or certificate holder in attempting to remedy the violation or to achieve compliance after receiving notification of the violation.

(b) If the commission waives a civil penalty for a violation involving any act or omission described in section 6(b)(4) of this chapter, the commission must make a written finding as to why it is waiving the civil penalty. The commission may waive a civil penalty under section 6(b)(4) of this chapter if the commission finds that the violation is the result of any of the following:

(1) The technological infeasibility of:

(A) complying with the requirements of a provision of this article or a lawful order of the commission; or

(B) remedying a violation of a provision of this article or a lawful order of the commission.

(2) An act of God.

(3) A defect in, or prohibited use of, customer provided equipment.

(4) A negligent act of a customer.

(5) An emergency situation.

(6) Unavoidable casualty.

(c) The secretary of the commission shall direct a civil penalty imposed and collected under section 6(b)(4) of this chapter as follows:

(1) A civil penalty imposed for a violation that directly affects retail customers must be refunded directly to the customers of the violating provider or certificate holder in the form of credits on customer bills.

(2) A civil penalty imposed for a violation not described in subdivision (1) must be deposited into an account designated by the Indiana finance authority for use by the authority in making loans or grants to broadband developers and operators under the Indiana broadband development program established by IC 8-1-33-15."

Page 48, line 41, delete "IC 8-1-32.6-9;" and insert "IC 8-1-32.6-8;".

Page 50, line 7, delete "IC 8-1-32.6-9" and insert "IC 8-1-32.6-8".

Page 52, line 13, delete "IC 8-1-32.6-9" and insert "IC 8-1-32.6-8".

- 1 Page 56, line 41, delete "each of the following:" and insert "**the**
- 2 **commission. The commission shall prescribe the number of copies**
- 3 **to be submitted by a communications service provider under this**
- 4 **section."**
- 5 Page 56, delete line 42.
- 6 Page 57, delete lines 1 through 2.
- 7 Page 58, line 19, delete "However, a provider may elect to file and
- 8 maintain with", begin a new paragraph and insert:
- 9 **"(b) The"**.
- 10 Page 58, delete lines 20 through 33.
- 11 Page 58, run in lines 19 through 34.
- 12 Page 59, line 2, delete "currently".
- 13 Page 61, line 20, delete "or residential".
- 14 Page 61, line 21, delete "apartment buildings, condominiums,".
- 15 Page 61, line 22, delete "subdivisions, office buildings," and insert
- 16 **"office buildings"**.
- 17 Page 61, line 22, after "parks." insert "**The term does not include**
- 18 **apartment buildings, condominiums, or subdivisions."**.
- 19 Page 61, delete lines 23 through 24.
- 20 Page 61, line 25, delete "6." and insert "**5."**.
- 21 Page 61, line 28, delete "7." and insert "**6."**.
- 22 Page 61, line 30, delete "8." and insert "**7."**.
- 23 Page 62, line 19, delete "Except as provided in subsection (e),
- 24 upon:" and insert "**Upon:"**.
- 25 Page 62, line 24, delete "counselor, if the complaint is filed" and
- 26 insert "**counselor; or"**.
- 27 Page 62, delete line 25.
- 28 Page 62, line 28, delete "motion, if the commission acts" and insert
- 29 **"motion;"**.
- 30 Page 62, delete line 29.
- 31 Page 63, delete lines 1 through 12.
- 32 Page 63, line 13, delete "(f)" and insert "**(e)"**.
- 33 Page 63, line 15, delete "(g)" and insert "**(f)"**.
- 34 Page 63, line 15, delete "or the office".
- 35 Page 63, line 17, delete "9." and insert "**8."**.
- 36 Page 63, line 40, delete "8" and insert "**7"**.
- 37 Page 64, between lines 7 and 8, begin a new paragraph and insert:
- 38 **"SECTION 56. IC 8-1-33-13, AS ADDED BY P.L.235-2005,**

SECTION 105, IS AMENDED TO READ AS FOLLOWS  
 [EFFECTIVE UPON PASSAGE]: Sec. 13. As used in this chapter,  
 "underserved area" means an area within Indiana that the authority  
 determines ~~does not have a person that:~~

(1) provides broadband service in the area at the time of the  
 authority's inquiry under ~~section 14~~ of this chapter; or

(2) intends to provide broadband service not later than three (3)  
 months after the date of the authority's inquiry under ~~section 14~~ of  
 this chapter:

**is not being adequately served with broadband service."**

Page 65, line 15, after "14." insert "(a)".

Page 65, between lines 23 and 24, begin a new paragraph and insert:

**"(b) The term does not include commercial mobile service (as  
 defined in 47 U.S.C. 332)."**

Page 66, delete lines 30 through 35.

Page 68, line 14, delete "or".

Page 68, line 16, after ";" insert "or".

Page 68, between lines 16 and 17, begin a new line block indented  
 and insert:

**"(3) pay an application fee, a document fee, a state franchise  
 fee, a service charge, or any fee other than the franchise fee  
 paid to a local unit under section 24 of this chapter;"**

Page 68, delete lines 36 through 40.

Page 70, line 31, delete "currently".

Page 72, delete lines 25 through 33, begin a new paragraph and  
 insert:

**"Sec. 23. (a) Except as provided in subsection (b), the holder of  
 a certificate under this chapter shall, at the end of each calendar  
 quarter, determine under subsections (c) and (d) the gross revenue  
 received during that quarter from the holder's provision of video  
 service in each unit included in the holder's service area under the  
 certificate.**

**(b) This subsection applies to a holder or other provider  
 providing video service in a unit in which a provider of video  
 service is required on June 30, 2006, to pay a franchise fee based on  
 a percentage of gross revenues. The holder's or provider's gross  
 revenue shall be determined as follows:**

**(1) If only one (1) local franchise is in existence on June 30,**

2006, the holder or provider shall determine gross revenue as the term is defined in the local franchise in existence on June 30, 2006.

(2) If:

(A) more than one (1) local franchise is in existence on June 30, 2006; and

(B) the provider is subject to a local franchise in the unit on June 30, 2006;

the provider shall determine gross revenue as the term is defined in that provider's local franchise.

(3) If:

(A) more than one (1) local franchise was in existence on June 30, 2006; and

(B) the holder was not providing cable television service in the unit on June 30, 2006;

the holder shall determine gross revenue as the term is defined in the local franchise that is most favorable to the unit."

Page 72, line 34, delete "(b)" and insert "(c) This subsection does not apply to a holder that is required to determine the holder's gross revenue under subsection (b)."

Page 73, line 17, delete "(c)" and insert "(d) This subsection does not apply to a holder that is required to determine the holder's gross revenue under subsection (b)."

Page 75, line 2, delete "(d)" and insert "(e)".

Page 75, line 5, delete "with subsections (b) and" and insert "with:

(1) subsection (b); or

(2) subsections (c) and (d);

whichever is applicable."

Page 75, delete line 6.

Page 75, line 7, delete "(e)" and insert "(f)".

Page 75, line 13, delete "income" and insert "revenue".

Page 75, line 33, delete "five percent (5%)." and insert "a percentage equal to one (1) of the following:

(A) If there is no local franchise in effect with respect to the unit on January 1, 2006, five percent (5%).

(B) If there is one (1) local franchise in effect with respect to the unit on January 1, 2006, the percentage of gross revenue paid by the holder of that local franchise as a

franchise fee to the unit, unless the unit elects to impose a different percentage, which may not exceed five percent (5%). Upon the expiration of a local franchise described in this clause, the percentage shall be determined by the unit but may not exceed five percent (5%).

(C) If there is more than one (1) local franchise in effect with respect to the unit on January 1, 2006, a percentage determined by the unit, which may not exceed the greater of:

(i) five percent (5%); or

(ii) the percentage paid by a holder of any local franchise in effect in the unit on January 1, 2006."

Page 75, line 35, delete "23(d)" and insert "23(e)".

Page 80, after line 42, begin a new paragraph and insert:

"Sec. 29. (a) This section applies to a provider that elects to terminate a local franchise under section 21(b)(2) of this chapter.

(b) A holder to which this section applies shall continue to provide the following services under the terms of the terminated local franchise until January 1, 2009, or until the terminated local franchise would have expired, whichever is later:

(1) Institutional network capacity, however defined or referenced in the terminated local franchise, but generally including private line data network capacity for use by the unit for noncommercial purposes. Institutional network capacity provided under this subdivision shall continue to be provided at the same capacity as was provided to the unit before the date of termination of the local franchise.

(2) Video service to community public buildings, such as municipal buildings and public schools, however defined or referenced in the terminated local franchise, but generally including cable drop connections to the buildings and a particular tier of video service provided to the buildings. Video service provided under this subdivision shall continue to be provided to the same extent as was provided to the unit before the date of termination of the local franchise. Beginning January 1, 2009, or upon the date on which the terminated local franchise would have expired, whichever is later, a provider that provides video service under this

subdivision shall continue to provide the video services under this subdivision if the unit requests that the services continue after December 31, 2008, or after the date the terminated local franchise would have expired, whichever is later.

(c) This subsection applies to services described in subsection (b) that are provided after December 31, 2008, or after the date the terminated local franchise would have expired, whichever is later. The incremental costs of the services shall be apportioned among all holders of a franchise to provide video service within the unit. The amount of the incremental costs borne by a particular holder is equal to the total cost of providing the services multiplied by a fraction calculated as follows:

(1) The numerator of the fraction equals the number of subscribers to whom the holder provides video service in the unit.

(2) The denominator of the fraction equals the total number of subscribers to whom all holders provide video service in the unit."

Delete pages 81 through 86.

Page 87, delete lines 1 through 27.

Page 89, line 9, delete "budgets of the commission and the office of" and insert "**budget of the commission**".

Page 89, line 10, delete "utility consumer counselor".

Page 91, delete lines 5 through 42.

Page 92, delete lines 1 through 14.

Page 92, line 16, delete "IC 8-1-2.6-7." and insert "IC 8-1-2.6-7; IC 8-1-33-14."

Page 92, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 63. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 8-1-34, as added by this act, apply throughout this SECTION.

(b) As used in this SECTION, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

(c) For the period beginning July 1, 2006, and ending June 30, 2010, the commission shall conduct an analysis of the deployment of video service in Indiana. In conducting the analysis required under this subsection, the commission shall determine and collect data on the following for each metropolitan statistical area in

1       **Indiana on at least an annual basis:**

2           (1) The median per capita income of the metropolitan  
3           statistical area in relation to the median per capita income of  
4           the state.

5           (2) Whether the metropolitan statistical area is part of or  
6           includes an underserved area, as determined by the Indiana  
7           finance authority under IC 8-1-33-13, as amended by this act.

8           (3) An identification of each provider offering video service in  
9           the metropolitan statistical area. For each provider identified  
10          under this subdivision, the commission shall identify whether  
11          the provider offers video service in the metropolitan statistical  
12          area under:

13           (A) a local franchise; or

14           (B) a certificate issued by the commission under  
15           IC 8-1-34-17, as added by this act.

16          (4) For each provider identified under subdivision (3), the type  
17          of technology used to deliver the video service offered. In  
18          compiling the information required under this subdivision, the  
19          commission may prepare a map identifying the location of the  
20          infrastructure used to provide video service within the  
21          metropolitan statistical area.

22          (5) For each provider identified under subdivision (3), any  
23          infrastructure build out initiated or completed within the  
24          metropolitan statistical area during the particular data  
25          collection period. For a provider that offers video service in  
26          the metropolitan statistical area under a local franchise, the  
27          commission shall identify whether the build out identified  
28          under this subdivision is required under the local franchise. In  
29          compiling the information required under this subdivision, the  
30          commission may prepare a map identifying the location of any  
31          build out that is initiated or completed.

32          (6) For each provider identified under subdivision (3), the  
33          provider's compliance with IC 8-1-34-28, as added by this act.  
34          The commission shall include in the data collected under this  
35          subdivision information on any complaint filed by an affected  
36          person under IC 8-1-34-28(c), as added by this act, including  
37          the commission's resolution of the complaint under  
38          IC 8-1-34-28(d), as added by this act.



1        **(d) In the commission's report under IC 8-1-2.6-4, as added by**  
 2 **this act, that is due to the regulatory flexibility committee on July**  
 3 **1, 2010, the commission shall include the results of the**  
 4 **commission's analysis under subsection (c). The results reported**  
 5 **must include the data collected under subsection (c) for each**  
 6 **metropolitan statistical area in Indiana for each annual data**  
 7 **collection period monitored by the commission during the four year**  
 8 **period specified under subsection (c).".**

9        Page 92, delete lines 25 through 26.

10       Page 92, line 27, delete "(d)" and insert "(c)".

11       Page 92, line 29, delete "(e)" and insert "(d)".

12       Page 92, line 29, delete "IC 8-1-2.6-1.5 and IC 8-1-2.6-13(e), both"  
 13 and insert "**IC 8-1-2.6-1.4,**".

14       Page 92, line 30, delete "may do any of the following" and insert  
 15 "**may, before July 1, 2009, take any action necessary to divest itself,**  
 16 **by July 1, 2009, of any jurisdiction that:**

17           **(1) is not described in IC 8-1-2.6-1.5(b), as added by this act,**  
 18           **or IC 8-1-2.6-13(d), as added by this act; and**

19           **(2) the commission exercises over basic telecommunications**  
 20           **service before July 1, 2009."**

21       Page 92, delete lines 31 through 42.

22       Page 93, delete lines 1 through 3.

23       Page 93, line 4, delete "(g)" and insert "(e)".

- 1 Page 93, delete lines 5 through 17.
- 2 Renumber all SECTIONS consecutively.  
(Reference is to SB 245, Digest Correction, as reprinted January 24,  
2006.)

**and when so amended that said bill do pass.**

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Representative Murphy